

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

BOSTON SCIENTIFIC CORPORATION	)	
and BOSTON SCIENTIFIC SCIMED, INC.,	)	
	)	
Plaintiffs,	)	
	)	Civ. No. 07-333-SLR
v.	)	Civ. No. 07-348-SLR
	)	Civ. No. 07-409-SLR
JOHNSON & JOHNSON, INC. and CORDIS	)	
CORPORATION,	)	
	)	
Defendants.	)	

BOSTON SCIENTIFIC CORPORATION	)	
and BOSTON SCIENTIFIC SCIMED, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civ. No. 07-765-SLR
	)	
JOHNSON & JOHNSON, INC., CORDIS	)	
CORPORATION and WYETH,	)	
	)	
Defendants.	)	

**ORDER**

At Wilmington this 25th day of June, 2009, having reviewed the parties' emails regarding bifurcation of damages, as well as the motion papers filed on the subject;

IT IS ORDERED that plaintiffs' motions for bifurcation<sup>1</sup> of damages are granted. Absent extraordinary circumstances (not present in this case), I have concluded that the issue of damages is best resolved after the Federal Circuit has decided all liability

---

<sup>1</sup>Civ. No. 07-333, D.I. 167; Civ. No. 07-348, D.I. 162; Civ. No. 07-409, D.I. 168; Civ. No. 07-765, D.I. 169.

issues, thus giving the parties (with their superior knowledge of the market in which they are operating) the first opportunity to quantify the market consequences of the Court's legal determinations. If the parties cannot reach agreement, the issue of damages will be resolved through trial after limited discovery.

IT IS FURTHER ORDERED, however, that if discovery is needed to flesh out commercial success evidence, I will conduct an in-person discovery conference to determine what **limited** discovery is appropriate within the time constraints remaining pretrial.<sup>2</sup> If the parties cannot work this out amicably, the conference shall be held on **Wednesday, July 1, 2009 at 10:00 a.m.** in courtroom 6B, sixth floor Federal Building, 844 King Street, Wilmington, Delaware.

  
United States District Judge

---

<sup>2</sup>Defendants shall be prepared to specifically propose and support their limited discovery requests.